

## **PUBLIC SANCTIONS**

**FY 2006**

The following are public sanctions (reproduced in their entirety) which were issued by the Commission during fiscal year 2006. The public records for these cases are available for inspection at the Commission's offices located at 300 W. 15th Street, Suite 415, Austin, Texas.



### **BEFORE THE STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC No. 05-0967-MU**

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### **PUBLIC ADMONITION**

**HONORABLE MANUEL RAMOS  
FORMER MUNICIPAL COURT JUDGE  
PEARSALL, FRIO COUNTY, TEXAS**

During its meeting in Austin, Texas, on February 15-17, 2006, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Manuel Ramos, former Municipal Court Judge for the City of Pearsall in Frio County, Texas. Judge Ramos was advised by letter of the Commission's concerns and provided his written response. Judge Ramos appeared with counsel before the Commission on February 17, 2006, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

#### **FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable Manuel Ramos was the Municipal Court Judge for the City of Pearsall in Frio County, Texas.
2. On or about July 5, 2005, E.R. went to Judge Ramos' office to be sworn in as a police officer for the City of Pearsall.
3. Following the investiture, Judge Ramos shook E.R.'s hand and congratulated her on her new position.

4. Thereafter, in the presence of the Chief of Police and the Court Clerk, Judge Ramos requested that E.R. “spank him” and then arrest him.
5. On July 12, 2005, the Pearsall City Council met in a special executive session to discuss the formal complaint filed against Judge Ramos by E.R. As a result of that meeting, Judge Ramos was placed on probation for thirty (30) days, but not relieved of his judicial duties.
6. Judge Ramos’ term of office expired in May 2005. During the special session of the Pearsall City Council, it was decided that Judge Ramos would not be reappointed to another term; however, he continued to serve until a replacement was appointed.

### **RELEVANT STANDARDS**

1. Canon 2A of the Texas Code of Judicial Conduct states: “A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”
2. Canon 3B(4) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall be patient, dignified and courteous to...others with whom the judge deals in an official capacity... .”

### **CONCLUSION**

The Commission concludes from the facts and evidence presented that Judge Ramos’ inappropriate and offensive statement to E.R. after the investiture demonstrated more than a mere lapse of judgment. As a public official charged with upholding the honor and integrity of the judiciary, Judge Ramos knew or should have known that his behavior lacked dignity and would be perceived as offensive, disrespectful, and discourteous not just to E.R., but to her supervisor and the court employee who witnessed the incident. Based on the circumstances surrounding this matter, the Commission concludes that the judge’s actions constituted a willful violation of Canons 2A and 3B(4) of the Texas Code of Judicial Conduct.

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In condemnation of the conduct described above that violated Canons 2A and 3B(4) of the Texas Code of Judicial Conduct, it is the Commission’s decision to issue a **PUBLIC ADMONITION** to the Honorable Manuel Ramos, former Municipal Court Judge for the City of Pearsall in Frio County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC ADMONITION** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this \_\_\_\_6th\_\_\_\_ day of March, 2006.

**ORIGINAL SIGNED BY**

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Honorable Monica A. Gonzalez, Chair  
State Commission on Judicial Conduct





**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC No. 04-1044-CC**

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**PUBLIC ADMONITION**

**HONORABLE MICHAEL PETERS  
CRIMINAL COUNTY COURT AT LAW No. 2  
HOUSTON, HARRIS COUNTY, TEXAS**

During its meeting in Austin, Texas, on April 19-21, 2006, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Michael Peters, Judge of the Criminal County Court at Law No. 2 in Houston, Harris County, Texas. Judge Peters was advised by letter of the Commission's concerns and provided a written response. Judge Peters appeared before the Commission on April 19, 2006, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

**FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable Michael Peters was Judge of the Criminal County Court at Law No. 2 in Houston, Harris County, Texas.
2. On or about June 7, 2004, Judge Peters sentenced a woman convicted of severely neglecting two horses to spend 30 days in jail and to have a diet restricted to bread and water for the first three (3) days.
3. Judge Peters' "bread and water" order could not be carried out by county officials because it was in direct conflict with the Texas Commission on Jail Standards.
4. On or about June 8, 2004, Judge Peters sentenced a man convicted of illegally dumping chromium from his metal-plating business to drink "from a non-toxic volume of water containing the pollutants dumped into the dumpsters."
5. Judge Peters' "toxic sludge cocktail" order was not carried out because officials determined that drinking any amount of chromium could seriously threaten the defendant's health.

6. Judge Peters failed to amend or withdraw the “bread and water” or “toxic sludge cocktail” conditions after being advised by county officials that neither condition could be enforced under state law.
7. Judge Peters’ sentences received local media coverage.

### **RELEVANT STANDARDS**

1. Canon 2A of the Texas Code of Judicial Conduct states: “A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”
2. Article V, §1-a(6)A of the Texas Constitution states that a judge may be disciplined or removed from office for willful or persistent conduct that casts public discredit upon the judiciary or administration of justice.

### **CONCLUSION**

The Commission concludes from the facts and evidence presented that Judge Peters failed to comply with the law and failed to act at all times in a manner that promotes public confidence in the integrity of the judiciary by issuing orders that he knew or should have known were unenforceable and in violation of state law. Such conduct constituted willful and persistent violations of Canon 2A of the Texas Code of Judicial Conduct. Moreover, as a public official charged with upholding the honor and integrity of the judiciary, Judge Peters’ actions cast public discredit upon the integrity of the judiciary and the administration of justice, in violation of Article V, §1-a(6)A of the Texas Constitution.

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In condemnation of the conduct described above that violated Canon 2A of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution, it is the Commission’s decision to issue a **PUBLIC ADMONITION** to the Honorable Michael Peters, Judge of the Criminal County Court at Law No. 2 in Houston, Harris County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC ADMONITION** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state’s judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this 4th day of May, 2006.

### **ORIGINAL SIGNED BY**

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Honorable Monica A. Gonzalez, Chair  
State Commission on Judicial Conduct



**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC No. 05-0254-MU**

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**PUBLIC ADMONITION**

**HONORABLE B.R. DUNCAN  
FORMER MUNICIPAL JUDGE  
GARRISON, NACOGDOCHES COUNTY, TEXAS**

During its meeting on May 11, 2006, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable B.R. Duncan, former Municipal Court Judge for the City of Garrison, in Nacogdoches County, Texas. Judge Duncan was advised by letter of the Commission's concerns and provided a written response. Judge Duncan was invited to appear before the Commission on June 9, 2005, for a suspension hearing, but failed to appear. On or about July 1, 2005, Judge Duncan was advised by letter of the Commission's Request for Order of Suspension filed with the Texas Supreme Court. On or about October 11, 2005, Judge Duncan was notified that the Texas Supreme Court had suspended him from office, without pay, pending final disposition of the charge pending against him. As of this date, Judge Duncan has made no attempt to resolve the charge against him by obtaining the required judicial education for fiscal year 2004. After considering the evidence before it, the Commission entered the following Findings and Conclusions.

**FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable B.R. Duncan was the Municipal Court Judge for the City of Garrison in Nacogdoches County, Texas.
2. On or about November 12, 2004, the Court of Criminal Appeals reported that Judge Duncan failed to obtain the required judicial education for fiscal year 2004 (September 1, 2003 through August 31, 2004).
3. On or about January 18, 2005, the Commission received the affidavit of Hope Lochridge, Executive Director for the Texas Municipal Courts Education Center, in which she stated that during fiscal year 2004, Judge Duncan completed 0 hours

out of the 12 hours of judicial education required of a municipal court judge. Judge Duncan was not granted a waiver from this requirement.

4. On or about February 16, 2005, Judge Duncan was asked to respond to the allegation that he had failed to obtain the required judicial education for fiscal year 2004. Judge Duncan failed to respond to the Commission's inquiry.
5. On or about May 11, 2005, Judge Duncan was invited to appear before the Commission on June 9, 2005, for a suspension hearing pursuant to Rule 15b of the Texas Procedural Rules for the Removal or Retirement of Judges.
6. On June 9, 2005, the Commission went forward with the suspension hearing. Judge Duncan failed to appear, but provided a written response to the Commission stating that he did not attend his judicial education classes in fiscal year 2004 because the City of Garrison was not sure whether it would continue to have a municipal court.
7. At the conclusion of the June 9 hearing, the Commission voted to recommend to the Texas Supreme Court that Judge Duncan be suspended from office, without pay, pending final disposition of the charge against him.
8. On or about July 1, 2005, the Commission filed its Request for Order of Suspension with the Texas Supreme Court and notified Judge Duncan of the filing.
9. On or about October 11, 2005, the Texas Supreme Court suspended Judge Duncan from office, without pay. A copy of the Order was provided to Judge Duncan.
10. As of May 11, 2006, Judge Duncan had made no attempt to resolve the charge pending against him by obtaining his judicial education requirements for fiscal year 2004.
11. As of May 11, 2006, Judge Duncan had been replaced as municipal judge for the City of Garrison.

### **RELEVANT STANDARD**

Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall maintain professional competence in [the law]."

### **CONCLUSION**

The Commission concludes from the facts and evidence presented that by failing to complete his judicial education requirements for fiscal year 2004, Judge Duncan failed to maintain professional competence in the law, in violation of Canon 3B(2) of the Texas Code of Judicial Conduct.

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In condemnation of the above-recited conduct that violated Canon 3B(2) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC**

**ADMONITION** to the Honorable B.R. Duncan, former Municipal Court Judge for the City of Garrison, Nacogdoches County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC ADMONITION** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this the 25<sup>th</sup> day of May, 2006.

**ORIGINAL SIGNED BY**

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Honorable Monica A. Gonzalez, Chair  
State Commission on Judicial Conduct







**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC No. 05-0264-MU**

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**PUBLIC ADMONITION**

**HONORABLE JAMES L. SUPKIS  
FORMER MUNICIPAL JUDGE  
NASSAU BAY, HARRIS COUNTY, TEXAS**

During its meeting on May 11, 2006, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable James L. Supkis, former Municipal Court Judge for the City of Nassau Bay, in Harris County, Texas. Judge Supkis was advised by letter of the Commission's concerns and provided a written response. Judge Supkis was invited to appear before the Commission on June 9, 2005, for a suspension hearing, but failed to appear. On or about August 23, 2005, Judge Supkis was advised by letter of the Commission's Request for Order of Suspension filed with the Texas Supreme Court. On or about October 11, 2005, Judge Supkis was notified that the Texas Supreme Court had suspended him from office, without pay, pending final disposition of the charge pending against him. As of this date, Judge Supkis has made no attempt to resolve the charge against him by obtaining the required judicial education for fiscal year 2003. After considering the evidence before it, the Commission entered the following Findings and Conclusions.

**FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable James L. Supkis was a Municipal Court Judge for the City of Nassau Bay in Harris County, Texas.
2. On or about November 12, 2004, the Court of Criminal Appeals reported that Judge Supkis failed to obtain the required judicial education for fiscal year 2003 (September 1, 2002 through August 31, 2003).
3. On or about March 15, 2005, the Commission received the affidavit of Hope Lochridge, Executive Director for the Texas Municipal Courts Education Center, in which she stated that during fiscal year 2003, Judge Supkis completed 0 hours out of the 12 hours of judicial education required of a municipal court judge. Judge Supkis was granted a conditional waiver from this requirement if he

completed two 12-hour education programs in fiscal year 2004; however, Judge Supkis completed only one 12-hour program in fiscal year 2004.

4. On or about March 16, 2005, Judge Supkis was asked to respond to the allegation that he had failed to obtain the required judicial education for fiscal year 2003. Judge Supkis failed to respond to the Commission's inquiry.
5. On or about May 11, 2005, Judge Supkis was invited to appear before the Commission on June 9, 2005, for a suspension hearing pursuant to Rule 15b of the Texas Procedural Rules for the Removal or Retirement of Judges.
6. The May 11 notice sent to the judge's court address was returned to the Commission marked "return to sender."
7. On June 9, 2005, the Commission went forward with the suspension hearing. Judge Supkis failed to appear.
8. At the conclusion of the June 9 hearing, the Commission voted to recommend to the Texas Supreme Court that Judge Supkis be suspended from office, without pay, pending final disposition of the charge against him.
9. On or about June 24, 2005, the Commission notified Judge Supkis at his last known address of the Commission's intent to file a Request for Order of Suspension with the Texas Supreme Court. On July 26, 2005, the information was returned to the Commission marked "unclaimed."
10. On or about August 23, 2005, the Commission filed its Request for Order of Suspension with the Texas Supreme Court and notified Judge Supkis of the filing. On September 20, 2005, the information mailed to the judge was returned to the Commission marked "unclaimed."
11. On or about October 11, 2005, the Texas Supreme Court suspended Judge Supkis from office, without pay. A copy of the Order was provided to Judge Supkis.
12. As of May 11, 2006, Judge Supkis had made no attempt to resolve the charge pending against him by obtaining his judicial education requirements for fiscal year 2003.
13. As of May 11, 2006, Judge Supkis had been replaced as municipal judge for the City of Nassau Bay.

### **RELEVANT STANDARD**

Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall maintain professional competence in [the law]."

### **CONCLUSION**

The Commission concludes from the facts and evidence presented that by failing to complete his judicial education requirements for fiscal year 2003, Judge Supkis failed to maintain professional competence in the law, in violation of Canon 3B(2) of the Texas Code of Judicial Conduct.

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In condemnation of the above-recited conduct that violated Canon 3B(2) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC ADMONITION** to the Honorable James L. Supkis, former Municipal Court Judge for the City of Nassau Bay, Harris County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC ADMONITION** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this the 25<sup>th</sup> day of May, 2006.

**ORIGINAL SIGNED BY**

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Honorable Monica A. Gonzalez, Chair  
State Commission on Judicial Conduct





**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC Nos. 03-1016-DI AND 04-1119-DI**

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**PUBLIC WARNING**

**HONORABLE BRITT PLUNK  
356<sup>TH</sup> DISTRICT COURT  
KOUNTZE, HARDIN COUNTY, TEXAS**

During its meeting on May 11, 2006, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Britt Plunk, Judge of the 356<sup>th</sup> District Court in Kountze, Hardin County, Texas. Judge Plunk was advised by letter of the Commission's concerns and provided a written response. Judge Plunk appeared with counsel before the Commission on April 21, 2006, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

**FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable Britt Plunk was Judge of the 356<sup>th</sup> District Court in Kountze, Hardin County, Texas.

**CJC No. 03-1016-DI**

2. On or about Tuesday, August 5, 2003, Kimberly Loftin ("Kimberly") died in Hardin County after a traffic accident. That afternoon, Victoria Kellum ("Victoria"), Kimberly's seven (7) year-old daughter, who had been living with Kimberly and her husband, Sam Loftin ("Loftin"), the child's stepfather, was taken to Christopher Kellum ("Kellum"), her biological father, who informed her that her mother had died.
3. In the days immediately following the death, Kellum made attempts to contact Loftin to obtain information about funeral arrangements. Through family members, Kellum advised Loftin that he intended to bring Victoria to her mother's funeral, but did not want his daughter to attend the wake or visitation, which he thought might be too traumatic for the child.

4. On the evening of Thursday, August 7, 2003, Kellum and his wife made arrangements to have Victoria's hair done at a local salon in preparation for her mother's funeral scheduled for 10 a.m. the following morning.
5. Believing Kellum was not going to allow Victoria to attend the funeral, Loftin retained the legal services of Rebecca Walton ("Walton"), a local family law attorney and Assistant Hardin County Attorney, to gain custody of the child. Walton is also the daughter of Judge Plunk's court coordinator, Rita Peterson ("Peterson").
6. On the afternoon of August 7, 2003, Walton contacted Judge Plunk to determine his availability to sign an order granting emergency relief as to a child. Judge Plunk advised Walton that he would be completing some paperwork at the courthouse later that evening and would be available at that time if she still needed him.
7. At approximately 7 p.m. on August 7, 2003, Judge Plunk met with Walton in his courtroom at which time the attorney presented him with an Original Petition in Suit Affecting the Parent-Child Relationship, a Temporary Restraining Order and Order Setting Hearing for Temporary Orders, a Motion for Issuance of Writ of Attachment and an Order for Issuance of Writ of Attachment.
8. According to these court filings, Loftin was seeking to obtain immediate temporary custody and possession of Victoria, away from her father, Kellum, in order to take the child to her mother's funeral the next morning.
9. In support of the Petition and Request for Temporary Restraining Order, Loftin provided an affidavit that stated as the basis for the claim of "immediate and irreparable injury, loss or damage" to the child that Kellum would not allow Victoria to attend her mother's funeral.
10. Believing that it was tragic for Kellum not to allow his daughter to attend her mother's funeral, Judge Plunk signed the Temporary Restraining Order and issued a Writ of Attachment for the child, who was to be taken from Kellum and immediately turned over to her stepfather, Loftin, as he waited at the courthouse.
11. At approximately 8:55 p.m. that evening, two Hardin County Constables and a Hardin County Juvenile Detention Officer arrived at the hair salon where Victoria was getting her hair done for her mother's funeral. After serving Kellum's wife with the Writ of Attachment, the officers took the child into their custody and delivered her to her stepfather, Loftin.
12. On or about Tuesday, August 12, 2003, following the funeral, Victoria was returned to her father, Kellum.
13. Kellum, who had retained an attorney to represent him in the matter, filed a Motion to Recuse Judge Plunk from presiding over any other proceedings in the case.

14. On or about August 21, 2003, a visiting judge arrived at the Hardin County courthouse to hold a hearing on the Motion to Recuse; however, the parties reached an agreement and the motion was withdrawn.
15. On or about November 19, 2003, Judge Plunk granted Loftin's Motion for Non-suit dismissing the case.
16. According to Judge Plunk, he has known Peterson for over thirty (30) years and has known Peterson's daughter, Walton, her entire life. Peterson has been employed as his court coordinator since April 1995. Walton regularly appears in his court, both as Assistant County Attorney and as a private family law practitioner.

**CJC No. 04-1119-DI**

17. On or about July 26, 2004, Judge Plunk presided over a motion for enforcement hearing regarding *In the Matter of Johnson*, Cause No. 43,032.
18. On the Friday before the Monday hearing, Myrna Davila Gregory ("Gregory"), the Houston attorney representing the movant in the case, was advised by her client that he had concerns about Judge Plunk's ability to be fair and impartial due to the judge's relationship with opposing counsel, Walton, the daughter of the judge's court coordinator.
19. Based upon her client's concerns, Gregory immediately prepared a motion seeking to recuse Judge Plunk from the case. Gregory attempted to contact Walton prior to filing the motion, but was unsuccessful. Gregory faxed the Motion to Recuse to the court and to Walton that same afternoon.
20. At the commencement of the enforcement hearing on July 26<sup>th</sup>, Judge Plunk advised Gregory that he would not voluntarily recuse himself from the case and would have another judge hear her motion because "this is an issue that has been raised before. It's been litigated before."<sup>1</sup>
21. Judge Plunk then stated "since this has been litigated many times before, Ms. Walton may want to file some sort of motion for sanctions after this; and I will seriously consider any sort of motion."
22. Shortly thereafter, Walton filed a response to the Motion to Recuse on behalf of her client seeking sanctions against Gregory and/or her client.
23. In the Response to the Motion to Recuse, Walton states that she "has practiced in Judge Plunk's court for more than 10 years and [Walton's] mother has been employed by the 365<sup>th</sup> Judicial District Court for a period of at least 9 years and there has been no favoritism shown in any case being heard by the Honorable Britt Plunk."
24. On or about July 29, 2004, a visiting judge denied the Motion to Recuse and the Motion for Sanctions.

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<sup>1</sup> In his testimony before the Commission, however, Judge Plunk stated that prior to the filing of Gregory's motion, the issue of his recusal and his relationship with Walton had never been raised in the *Johnson* case.

## RELEVANT STANDARDS

1. Canon 2B of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall not allow any relationship to influence judicial conduct or judgment.”
2. Canon 3B(4) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, . . . .”

## CONCLUSION

The Commission concludes from the facts and evidence presented that Judge Plunk’s close relationship with opposing counsel, Rebecca Walton, the daughter of his longtime court coordinator, influenced his conduct and judgment in both of the cases described above, causing litigants and their counsel to form legitimate concerns that the judge would not be fair, neutral, and impartial in proceedings involving Walton. Because of this relationship, Judge Plunk failed to diligently review and question the pleadings presented to him by Walton, which effectively deprived a father of possession and custody of his child on the eve of her mother’s funeral, without any opportunity for a hearing to determine whether the representations made by Loftin were true or what was in the best interests of the child. In taking this action, the Commission declines to address whether the judge acted within his legal authority to enter the orders presented to him by Walton. Absent extraordinary circumstances, that authority lies with the appellate courts, not this Commission. However, because the consequences of the judge’s actions in this instance were so egregious and because of the admitted relationship among the key players – Judge Plunk, Rebecca Walton and Rita Peterson – the Commission concludes that the judge’s actions constituted a willful violation of Canon 2B of the Texas Code of Judicial Conduct.

In addition, the Commission acknowledges that in any legal community, relationships exist between judges and attorneys. However, no matter how widely known the relationship may be, there remains an ethical responsibility owed by the judge to publicly disclose the nature and extent of this relationship so that all litigants and attorneys are able to make informed decisions about whether the judge is capable of fairly and impartially deciding their cases. It is not enough that judges act fairly and impartially, they must also *appear* to act fairly and impartially in order to maintain and enhance public confidence in the judiciary. Despite statements from numerous witnesses who observed the incident in question and assured the Commission that Judge Plunk’s tone was courteous and patient, the fact remains that Judge Plunk’s statements about sanctioning Gregory, made in open court, were perceived as a threat and confirmed to the out-of-town lawyer that Walton was in a special position to influence this judge. That kind of threat, when combined with the close relationship with Walton, demonstrated a lack of patience, courtesy and the dignity required of a judicial officer, in violation of Canon 3B(4) of the Texas Code of Judicial Conduct. In condemning Judge Plunk’s conduct toward Gregory, the Commission reminds judges of the historic role that the judiciary has played in mentoring lawyers in order to foster the continually high ethical standards of the legal profession. In this regard, Judge Plunk’s conduct has undermined that goal, as well as the public’s confidence in the integrity, impartiality, and independence of the Texas judiciary.

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In condemnation of the conduct described above that violated Canons 2B and 3B(4) of the Texas Code of Judicial Conduct, it is the Commission's decision to issue a **PUBLIC WARNING** to the Honorable Britt Plunk, Judge of the 356<sup>th</sup> District Court in Kountze, Hardin County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC WARNING** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this 30th day of May, 2006.

**ORIGINAL SIGNED BY**

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Honorable Monica A. Gonzalez, Chair  
State Commission on Judicial Conduct







**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC No. 05-0854-JP**

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**PUBLIC ADMONITION**

**HONORABLE JIM L. POWERS  
JUSTICE OF THE PEACE, PRECINCT 5  
TIMPSON, SHELBY COUNTY, TEXAS**

During its meeting on May 11, 2006, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Jim L. Powers, Justice of the Peace for Precinct 5, in Timpson, Shelby County, Texas. Judge Powers was advised by letter of the Commission's concerns and provided a written response. After considering the evidence before it, the Commission entered the following Findings and Conclusions.

**FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable Jim L. Powers was Justice of the Peace for Precinct 5, in Timpson, Shelby County, Texas.
2. On or about May 5, 2005, a political advertisement paid for by Judge Powers appeared in the *Timpson & Tenaha News*, directing voters to re-elect a candidate for the Timpson Independent School District school board.
3. In his written responses to the Commission inquiry, Judge Powers acknowledged that he had been asked by the school board candidate to read the article in question before it appeared in the newspaper.
4. According to the judge, he did not write the article, but did agree with the statements contained therein.
5. Judge Powers contended that it was his understanding that the article would appear as a Letter to the Editor signed by "Jim Powers." Although he allowed his name to be used as a private citizen, he was unaware that his title would be used or that the statements would appear in the form of a political advertisement.
6. Judge Powers went on to explain that he did not think he was doing anything wrong as a private citizen, but realized after the article was published that he had made an error in judgment.

7. The judge acknowledged that he took no action to correct the record or retract the statement after the newspaper was distributed.
8. Judge Powers concluded that he found himself “in an almost impossible position as a half term JP to be expected to be fully knowledgeable of all the do’s and don’ts required of a Justice of the Peace.”

### **RELEVANT STANDARDS**

1. Canon 2B of the Texas Code of Judicial Conduct states, in pertinent part: “A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; . . .”
2. Canon 5(2) of the Texas Code of Judicial Conduct states, in pertinent part: “A judge or judicial candidate shall not authorize the public use of his or her name endorsing another candidate for any public office,. . .”

### **CONCLUSION**

The Commission concludes from the facts and evidence presented that Judge Powers violated Canons 2B and 5(2) of the Texas Code of Judicial Conduct by authorizing his name to be used in an endorsement of a candidate for public office. In reaching this conclusion, the Commission notes that it would have been immaterial if the advertisement in question had appeared as a “Letter to the Editor” signed by “Jim Powers,” a private citizen, since it can be assumed, given the small community in which Judge Powers holds elected office, that the voters in Timpson know that he is a judge whether he uses the title or not. While the Commission acknowledges that judges do have private lives and many of the rights afforded to private citizens, it remains an unavoidable consequence that, as a member of the judiciary, Judge Powers should expect to be the subject of public scrutiny, even in his private life, and should accept certain restrictions on his conduct that a private citizen might find burdensome. All judges, whether serving full-time or part-time, should accept these restrictions freely and willingly in order to enhance and maintain public confidence in the integrity, impartiality, and independence of the judiciary.

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In condemnation of the above-recited conduct that violated Canons 2B and 5(2) of the Texas Code of Judicial Conduct, it is the Commission’s decision to issue a **PUBLIC ADMONITION** to the Honorable Jim L. Powers, Justice of the Peace for Precinct 5, in Timpson, Shelby County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC ADMONITION** by the Commission.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this the 9<sup>th</sup> day of June, 2006.

**ORIGINAL SIGNED BY**

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Honorable Monica A. Gonzalez, Chair  
State Commission on Judicial Conduct





**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC No. 05-0815-RT**

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**PUBLIC ADMONITION**

**HONORABLE ERIC ANDELL  
FORMER APPELLATE JUDGE  
HOUSTON, HARRIS COUNTY, TEXAS**

During its meeting in Austin, Texas, on April 13, 2006, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Eric Andell, a former Appellate Judge, Houston, Harris County, Texas. Judge Andell was advised by letter of the Commission's concerns and provided a written response. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

**FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable Eric Andell was a former Appellate Judge available to serve on assignment.
2. On or about February 28, 2005, Judge Andell was charged by information of one misdemeanor count of violating the federal conflict of interest statute, 18 U.S.C. §§208(a) and 216(a)(1).
3. The offense arose as a result of Judge Andell's approval of travel for himself as a Deputy Under Secretary for Safe and Drug-Free Schools within the U.S. Department of Education between November 2002 and September 2003.
4. Specifically, Judge Andell authorized and approved travel for himself at government expense on approximately fourteen (14) occasions to New York City, Austin, Houston, Detroit, and Columbus, Ohio, which included travel for personal purposes.
5. As part of several of these trips, Judge Andell was paid for sick leave, when in fact he was working and being paid as a visiting judge in Texas.
6. Judge Andell failed to record on U.S. Government financial disclosure forms his salary from serving as a visiting judge in Texas.

7. Because of Judge Andell's financial interest in these trips, the government concluded that it was a conflict of interest for the judge to authorize or approve them.
8. On or about March 10, 2005, Judge Andell signed and approved a Plea Agreement, wherein he admitted the facts supporting the charge against him.
9. On or about April 29, 2005, Judge Andell entered a guilty plea in the United States District Court for the District of Columbia to the charge against him.
10. Prior to entering his guilty plea, Judge Andell paid full restitution in the amount of \$8,660 to the federal government.
11. On or about July 29, 2005, Judge Andell was sentenced to a one-year term of unsupervised probation, fined \$5,000, and ordered to perform 100 hours of community service.
12. In his written responses to the Commission's inquiry, Judge Andell accepted full responsibility for his conduct.
13. The criminal case against Judge Andell received widespread media attention in Texas.

### **RELEVANT STANDARDS**

1. Canon 2A of the Texas Code of Judicial Conduct states: "A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary."
2. Article V, §1-a(6)A of the Texas Constitution states that a judge may be disciplined or removed from office for willful or persistent conduct that casts public discredit upon the judiciary or administration of justice.

### **CONCLUSION**

The Commission concludes from the facts and evidence presented that while serving as a visiting judge in the State of Texas, Judge Andell failed to comply with the law and failed to act at all times in a manner that promotes public confidence in the integrity of the judiciary by engaging in conduct that constituted a violation of the federal conflict of interest statutes. As a public official charged with upholding the honor and integrity of the judiciary, Judge Andell knew or should have known that his actions would cast public discredit upon the integrity of the judiciary. Based on the foregoing, the Commission concludes that the judge's actions constituted a willful violation of Canon 2A of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution.

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In condemnation of the conduct described above that violated Canon 2A of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution, it is the Commission's decision to issue a **PUBLIC ADMONITION** to the Honorable Eric Andell, former Appellate Judge, Houston, Harris County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC ADMONITION** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this 15<sup>th</sup> day of June, 2006.

**ORIGINAL SIGNED BY**

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Honorable Monica A. Gonzalez, Chair  
State Commission on Judicial Conduct





**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC No. 06-0338-MU**

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**PUBLIC REPRIMAND**

**HONORABLE TIFFANY L. LEWIS  
FORMER MUNICIPAL JUDGE  
DALLAS, DALLAS COUNTY, TEXAS**

During its meeting on August 10, 2006, the State Commission on Judicial Conduct concluded a review of the allegations against the Honorable Tiffany L. Lewis, former Municipal Court Judge for the City of Dallas, Dallas County, Texas. Judge Lewis was advised by letter of the Commission's concerns, but failed to respond. Judge Lewis was offered an opportunity to appear before the Commission and give testimony at the August 10, 2006 meeting, but failed to respond or appear. After considering the evidence before it, the Commission entered the following Findings and Conclusions.

**FINDINGS OF FACT**

1. At all times relevant hereto, the Honorable Tiffany L. Lewis was a Municipal Court Judge for the City of Dallas, Dallas County, Texas.
2. On or about December 12, 2005, the Court of Criminal Appeals reported that Judge Lewis failed to obtain the required judicial education for fiscal year 2005 (September 1, 2004 through August 31, 2005).
3. On or about February 2, 2006, the Commission received the affidavit of Hope Lochridge, Executive Director for the Texas Municipal Courts Education Center (TMCEC), in which she stated that during fiscal year 2005, Judge Lewis completed 0 hours out of the 12 hours of judicial education required of a municipal court judge. Judge Lewis did not request, nor was she granted a waiver from this requirement.
4. On or about February 28, 2006, Judge Lewis was asked to respond to the allegation that she had failed to obtain the required judicial education for fiscal year 2005. Judge Lewis failed to respond to the Commission's inquiry.

5. Judge Lewis' term of office expired on May 31, 2006. She was not reappointed for another term.
6. On or about June 16, 2006, the Commission determined that as a former judge, Judge Lewis was no longer eligible to obtain judicial education through the TMCEC, making it virtually impossible for her to comply with the requirements set forth in the Texas Rules of Judicial Education.
7. On or about June 27, 2006, the Commission offered to resolve the complaint against Judge Lewis through either an agreed sanction or a voluntary resignation agreement. In the alternative, Judge Lewis was offered the opportunity to appear before the Commission to provide testimony and evidence in defense of the charge against her. Judge Lewis failed to respond to the Commission's offer and failed to appear before the Commission at its August 10, 2006 meeting.

### **RELEVANT STANDARDS**

1. Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas judge may be disciplined for willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice.
2. Canon 3B(2) of the Texas Code of Judicial Conduct states, in pertinent part: "A judge shall maintain professional competence in [the law]."

### **CONCLUSION**

The Commission concludes from the facts and evidence presented that by failing to obtain her judicial education requirements in fiscal year 2005, Judge Lewis failed to maintain professional competence in the law, in violation of Canon 3B(2) of the Texas Code of Judicial Conduct. Such failure on the part of Judge Lewis constituted willful or persistent conduct that is clearly inconsistent with proper performance of her duties or casts public discredit upon the judiciary or administration of justice, in violation of Article V, §1-a(6)A of the Texas Constitution.

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In condemnation of the above-recited conduct that violated Canon 3B(2) of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution, it is the Commission's decision to issue a **PUBLIC REPRIMAND** to the Honorable Tiffany L. Lewis, former Municipal Court Judge for the City of Dallas, Dallas County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the actions described above be made the subject of a **PUBLIC REPRIMAND** by the Commission.



The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this the 31<sup>st</sup> day of August, 2006.

**ORIGINAL SIGNED BY**

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Honorable Monica A. Gonzalez, Chair  
State Commission on Judicial Conduct



(NOTE: ALSO SEE NUNC PRO TUNC ORDER FOLLOWING SANCTION  
CORRECTING CLERICAL ERROR  
IN PUBLIC REPRIMAND OF HON. DON WINDLE)



**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC Nos. 05-0847-CC & 06-0164-CC**

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**PUBLIC REPRIMAND**

**HONORABLE DON WINDLE  
COUNTY PROBATE COURT  
DENTON, DENTON COUNTY, TEXAS**

During its meeting in Austin, Texas, on August 10, 2006, the State Commission on Judicial Conduct concluded a review of allegations against the Honorable Don Windle, Judge of the County Probate Court in Denton, Denton County, Texas. Judge Windle was advised by letter of the Commission's concerns and provided a written response. Judge Windle appeared before the Commission on August 10, 2006, and gave testimony. After considering the evidence before it, the Commission entered the following Findings and Conclusion:

**FINDINGS OF FACT**

7. At all times relevant hereto, the Honorable Don Windle was Judge of the County Probate Court in Denton, Denton County, Texas.

**Judge Windle's Relationship with Beverly McClure**

8. In or around August 2003, Judge Windle married his court investigator, Beverly McClure. The marriage ended in a divorce, which was granted in or around March 2004.
9. At some point in or before 2003, Judge Windle approached the Denton County Commissioner's Court about budgeting for a program that would provide guardianship services for incapacitated persons.

10. In late 2003, the Denton County Commissioners Court allocated \$75,000 for a guardianship program such as that which had been promoted by Judge Windle.
11. In late 2003, McClure began the process of establishing Guardianship Services, Inc.
12. On January 9, 2004, the entity was incorporated as a Texas nonprofit organization.
13. As stated in its Articles of Incorporation, the specific purpose of Guardianship Services, Inc., is “[t]o provide guardianship services as directed by the Denton County Probate Court for indigent and other needy incapacitated individuals residing in Denton County, Texas and such other services as may be needed by the Ward or as directed by the Denton County Probate Court.”
14. In late 2003, Denton County published a Request for Proposal (“RFP”) for the guardianship program. McClure, on behalf of Guardianship Services, Inc., was the sole applicant.
15. The initial proposal from Guardianship Services, Inc. was not accepted because officials in Denton County determined that the specifications for the RFP needed to be revised.
16. On or about February 12, 2004, a revised RFP was approved by the Denton County Commissioners Court.
17. On or before March 8, 2004, Guardianship Services, Inc. submitted a proposal in response to the revised RFP. Once again, it was the only applicant.
18. In support of the proposal, Judge Windle submitted an undated letter of recommendation in which he extolled the “skills and abilities” of some of the principals of Guardianship Services, Inc. This was done in response to a requirement of the RFP that “[a]pplicants must also have the support and acceptance of the Denton County Probate Court.”
19. On or about April 5, 2004, Denton County officials recommended entering into a contract with Guardianship Services, Inc. The contract went into effect on May 1, 2004, and was renewed on October 5, 2004.
20. In his sworn written response to the Commission’s initial inquiry, Judge Windle represented that his former wife’s company, Guardianship Services, Inc., was not created until after their March 2004 divorce.
21. Judge Windle also represented in his sworn written response that Guardianship Services, Inc. was first awarded the contract during Denton County’s October 2004 budget process.
22. When questioned by a Commissioner about the discrepancies between his sworn written responses and his oral testimony, Judge Windle acknowledged that some of his written statements were incorrect.

#### **Judge Windle’s Relationship with Rick Woolfolk**

23. Rick Woolfolk, an investment broker with Raymond James in Denton County, has been a friend and business partner of Judge Windle since approximately 1997.

24. Specifically, Judge Windle and Woolfolk have a limited partnership with a corporate general partner that owns an airplane. Woolfolk also owns an option to buy a one-half interest in the hangar housing the airplane. The company that owns the hangar is Windle and Windle Investments, Inc., whose sole shareholder is Judge Windle. Judge Windle also carries a debt owed to him by Woolfolk in connection with Woolfolk's ownership interest in the airplane.
25. During the period of time of their friendship and business association, Judge Windle has appointed Woolfolk to serve as a commissioner in eminent domain cases handled by Judge Windle's court.
26. According to a *Dallas Morning News* article dated May 27, 2005, Woolfolk has "received at least 47 appointments [as an eminent domain commissioner] worth almost \$30,000."
27. In the same *Dallas Morning News* article, it was reported that Woolfolk's investment firm "also earns money, with Judge Windle's approval, safeguarding stocks belonging to dead or incapacitated people in probate court."
28. Although Judge Windle disputed some of the facts asserted in the *Dallas Morning News* article, he never challenged the accuracy of the reporter's information when it was published, nor at any time thereafter.

### **RELEVANT STANDARDS**

1. Article V, Section 1-a(6)A of the Texas Constitution provides that any Texas justice or judge may be disciplined for willful or persistent conduct that is clearly inconsistent with the proper performance of his duties or casts public discredit upon the judiciary or administration of justice.
2. Canon 2B of the Texas Code of Judicial Conduct states, in relevant part: "A judge shall not allow any relationship to influence judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impression that they are in a special position to influence the judge."
3. Canon 4D(1) of the Texas Code of Judicial Conduct states, in relevant part: "A judge shall refrain from financial and business dealings that tend to reflect adversely on the judge's impartiality, interfere with the proper performance of the judicial duties, exploit his or her judicial position, or involve the judge in frequent transactions with lawyers or persons likely to come before the court on which the judge serves."

### **CONCLUSION**

The Commission concludes from the facts and evidence before it that through his efforts to assist his wife, Beverly McClure's company, Guardianship Services, Inc., obtain an exclusive contract with Denton County to provide services to the Denton County Probate Court, which efforts included a letter of recommendation from the Denton County Probate Court, and through the numerous court appointments given to Rick Woolfolk, a friend and business partner who owed him money, Judge Windle lent the prestige of judicial office to advance his own private interests and the private interests

of McClure and Woolfolk, and conveyed the impression that McClure and Woolfolk were in special positions to influence him, in violation of Canon 2B of the Texas Code of Judicial Conduct. Furthermore, Judge Windle's business relationships with McClure and Woolfolk reflected adversely on the judge's impartiality and involved the judge in frequent transactions with persons likely to come before the court, in violation of Canon 4D(1) of the Texas Code of Judicial Conduct. As a result of the judge's actions, the *Dallas Morning News* published an article raising serious questions about the judge's impartiality, integrity, and independence and casting public discredit upon the judiciary and administration of justice in Denton County. In reaching this conclusion, the Commission also notes that Judge Windle provided false and misleading information to the Commission in his sworn written responses to the Commission's initial inquiry. Judge Windle's lack of candor to the Commission proved to be an aggravating factor in reaching a final decision in this case.

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In condemnation of the conduct described above that violated Canon 2A of the Texas Code of Judicial Conduct and Article V, §1-a(6)A of the Texas Constitution, it is the Commission's decision to issue a **PUBLIC REPRIMAND** to the Honorable Don Windle, Judge of the County Probate Court in Denton, Denton County, Texas.

Pursuant to the authority contained in Article V, Section 1-a(8) of the Texas Constitution, it is ordered that the conduct described above is made the subject of a **PUBLIC REPRIMAND** by the State Commission on Judicial Conduct.

The Commission has taken this action in a continuing effort to protect public confidence in the judicial system and to assist the state's judiciary in its efforts to embody the principles and values set forth in the Texas Constitution and the Texas Code of Judicial Conduct.

Issued this 31<sup>st</sup> day of August, 2006.

**ORIGINAL SIGNED BY**

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Honorable Monica A. Gonzalez, Chair  
State Commission on Judicial Conduct





**BEFORE THE  
STATE COMMISSION ON JUDICIAL CONDUCT**

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**CJC Nos. 05-0847-CC & 06-0164-CC**

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**ORDER NUNC PRO TUNC**

**HONORABLE DON WINDLE  
COUNTY PROBATE COURT  
DENTON, DENTON COUNTY, TEXAS**

On August 31, 2006, the State Commission on Judicial Conduct (the Commission) issued a *Public Reprimand* to the Honorable Don Windle, County Probate Judge for Denton County, Texas, in CJC Nos. 05-0847-CC and 06-0164-CC.

On September 20, 2006, it was brought to the Commission's attention that a clerical error occurred in the first full paragraph on Page 4 of the Sanction, wherein it was incorrectly reported that the judge's conduct was found to be in violation of Canon 2A of the Texas Code of Judicial Conduct. Instead, the canons found to have been violated were Canons 2B and 4D(1), as described elsewhere in the sanction. The Commission hereby enters this Order Nunc Pro Tunc to correct this clerical error.

Issued this 21<sup>st</sup> day of September, 2006.

**ORIGINAL SIGNED BY**

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Honorable Monica A. Gonzalez, Chair  
State Commission on Judicial Conduct